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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,670	09/18/2001	Kevin Collins	10006717	1243

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EXAMINER

HAVAN, THU THAO

ART UNIT	PAPER NUMBER
3691	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,670

Applicant(s)

COLLINS, KEVIN

Examiner

Thu Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Detailed Action

Response to Amendment

Claims 1-17 are pending. This action is in response to the remarks received September 11, 2006.

Response to Arguments

The rejection of claims 1-17 under 35 USC 103(a) as being unpatentable over Barzilai et al (US 6,012,045), Hambrecht et al. (US 6,629,082), Magill et al. (US 2004/0143542), non-patent literature eBay: Shill Crazy After all These Years (hereinafter eBay), and Auditing, Second Edition is maintained.

Applicant's arguments filed September 11, 2006 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

Applicant alleges that the prior art made of record fails to teach an auction auditing module. The examiner disagrees with applicant's representative since Hambrecht teaches an auction auditing module when he discloses the Administrative Module (AM) provides a set of client protocols and services to interact with the OMS for administrative purposes (col. 22, lines 5-67). In other words, Hambrecht teaches a Broker Client Module (BCM) provides a set of client protocols and services to interact with the OMS for bid management purposes. *Creation, modification, and cancellation of bids along with acceptance of fills is the primary responsibility of the BCM. BCM*

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gateway can be provided to allow an underwriter administering the auction server to service bids via a syndicate desk. Both a Java applet and a command-line interface will be provided for this module. Thus, Hambrecht discloses a module for an auction in auditing auction site via the Internet.

As for the 112 issue, Examiner is unclear whether bids are actually placed and the phrasing is limiting. Rather Applicants just stated that bids are on the auction site. Please clarify.

With regards to the claims rejected as being unpatentable over Barzilai, Hambrecht, Magill, eBay, and Auditing, Second Edition, the examiner would like to point out that the primary references teach the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Barzilai, Hambrecht, Magill, eBay, and Auditing, Second Edition teach the claimed limitations.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **10-13** recite the phrasing "to allow bidders to place bids..." It is unclear whether bids are actually place and therefore unclear whether the phrasing is limiting.

Claims **14-17** recite the phrasing "allowing a plurality of actual bidders to place bids..." It is unclear whether bids are actually placed by bidders and therefore unclear whether the phrasing is limiting.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-6, 8, 10-11, and 13-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilai (US 6,012,045) in view of Hambrecht et al. (US 6,629,082).

Re claim **1**, see the discussion of claim 11.

Re claim **2**, Hambrecht discloses verification that the auction function in a manner consistent with represented procedures at col. 9, line 35 to col. 10, line 29. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Barzilai with such procedures to establish integrity of an auction.

Re claims **3** and **4**, see the discussion of claims 1 and 11.

Re claim **5**, Barzilai discloses removal of simulated bidder data at Summary of the Invention, particularly col. 2, lines 54-64.

Re claim **6**, see the discussion of claim 10, limitation (b).

Re claim **8**, Barzilai discloses an auction server at Fig. 1, ele. 20 and col. 3, line 47 to col. 7, line 12, at least.

Re claim **10**, Barzilai discloses the invention substantially as claimed, including in a system for an electronically based auction, which is located on an auction site, elements of:

(a) an auction management module (col. 14, line 60 to col. 17, line 55, at least), located on the auction site (col. 5, lines 8-40), wherein the auction management module hosts the auction for a seller (Summary of the Invention);

(b) a plurality of actual bidder inputs, associate with the auction management module, to allow actual bidders to place bids in the auction on the auction site (figs. 4a, 6a; col. 16, lines 11-23);

(c) an auction certification entity module, in communication with the auction management module, to certify an auction taking place on the auction site (col. 17, line 33-42; col. 20, lines 29-33); and

(d) simulated bidder data, controlled by the auction auditing module, to submit at least one bid to the auction (col. 2, lines 54-64; col. 20, lines 11-28).

While Barzilai is clearly concerned with the validity of bid and auction function, it does not specifically disclose the concept of an audit of an auction. Hambrecht discloses the audit of an auction at col. 3, lines 55-64 and col. 9, line 9 to col. 10, line 25. See also col. 11, lines 7-10 and col. 22, lines 55-56. Note that Hambrecht at col. 22, lines 55-56 is concerned with audit of the same type bid modification disclosed by Barzilai at col. 16, lines 10-23.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the auction of Barzilai with the audit functionality of Hambrecht because this would provide assurance to auction participants of the validity of auction results.

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Re claim **11**, Barzilai discloses bidder data verification at col. 13, line 27 to col. 14, line 34 and col. 16, lines 11-23. See also col. 19, lines 20-52. Verified selection of a winning bidder is disclosed at col. 20, lines 11-28.

Re claim **13**, see the discussion of claim 10.

Claims **7** and **9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilai (US 6,012,045) in view of Hambrecht et al. (US 6,629,082) and further in view of Magill et al. (US 2004/0143542).

Re claim **7**, Barzilai discloses the invention substantially as claimed. See the discussion of claim 1. Barzilai does not specifically disclose an audit server hosting an audit function in networked communication with an auction management module. Magill discloses this imitation at fig 2, ele. 180 and para. 37. It would have been obvious to one of ordinary skill in the art at the of the invention to modify Barzilai with the audit server disclosed by Magill because this would have provide assurance to auction participants of the validity of auction results.

Re claim **9**, Magill further discloses hosting of the audit server on an auction server at fig. 2, ele. 170 and para. 27.

Claim **12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilai (US 6,012,045) in view of Hambrecht et al. (US 6,629,082) and further in view of eBay: Shill Crazy After all These Years, hereinafter, eBay.

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Re claim **12**, Barzilai discloses the invention substantially as claimed. See the discussion of claim 10. Barzilai does not specifically disclose a module for detection of a skill making bids. Ebay discloses this limitation at page 2, bracketed text. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Barzilai with the skill detection module of eBay because this would facilitate a fair winning bid value, as is shown desirable by eBay page 1, bracketed text.

Claims **14-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilai (US 6,012,045) in view of Hambrecht et al. (US 6,629,082) and further in view of Auditing, Second Edition.

Re claim **14**, Barzilai discloses the invention substantially as claimed. See the discussion of claim 1. Barzilai does not specifically disclose the use of test data through an auditing module (simulated bidder and related bids) to audit a business process behavior. Auditing, Second Edition discloses this limitation at pages 325-327. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the test data audit method of Auditing, Second Edition in the method of Barzilai because this would correctly identify and process bid transactions and assure that the auction functionality fairly and as intended. See Auditing, Second Edition at page 326, last para. to page 327.

Re claims **15-17**, see the discussion of claims 14 and 11.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

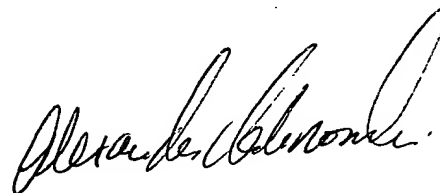
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH

11/22/2006

A handwritten signature in black ink, appearing to read "Alexander Kalinowski".

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER